

agreement will not be effective until signed by a district director, a director of an internal revenue service center, or an assistant regional commissioner.

(c) The taxpayer may sign a waiver of the requirement that he be mailed a notice of disallowance. Such waiver is irrevocable and will commence the running of the 2-year period described in paragraph (a) of this section on the date the waiver is filed. The waiver shall set forth:

(1) The type of tax and the taxable period covered by the taxpayer's claim for refund;

(2) The amount of the claim;

(3) The amount of the claim disallowed;

(4) A statement that the taxpayer agrees the filing of the waiver will commence the running of the 2-year period provided for in section 6532(a)(1) as if a notice of disallowance had been sent the taxpayer by either registered or certified mail.

The filing of such a waiver prior to the expiration of 6 months from the date the claim was filed does not permit the filing of a suit for refund prior to the time specified in section 6532(a)(1) and paragraph (a) of this section.

(d) Any consideration, reconsideration, or other action with respect to a claim after the mailing by registered mail prior to September 3, 1958, or by either registered or certified mail on or after September 3, 1958, of a notice of disallowance or after the execution of a waiver referred to in paragraph (c) of this section, shall not extend the period for bringing suit or other proceeding under section 7422(a).

§ 301.6532-2 Periods of limitation on suits by the United States.

The United States may not recover any erroneous refund by civil action under section 7405 unless such action is begun within 2 years after the making of such refund. However, if any part of the refund was induced by fraud or misrepresentation of a material fact, the action to recover the erroneous refund may be brought at any time within 5 years from the date the refund was made.

§ 301.6532-3 Periods of limitation on suits by persons other than taxpayers.

(a) *General rule.* No suit or proceeding, except as otherwise provided in section 6532(c)(2) and paragraph (b) of this section, under section 7426 and § 301.7426-1 relating to civil actions by persons other than taxpayers, shall be begun after the expiration of 9 months from the date of levy or agreement under section 6325(b)(3) giving rise to such action.

(b) *Period when claim is filed.* The 9-month period prescribed in section 6532(c)(1) and paragraph (a) of this section shall be extended to the shorter of,

(1) 12 months from the date of filing by a third party of a written request under § 301.6343-1(b)(2) for the return of property wrongfully levied upon, or

(2) 6 months from the date of mailing by registered or certified mail by the district director to the party claimant of a notice of disallowance of the part of the request to which the action relates. A request which, under § 301.6343-1(b)(3), is not considered adequate does not extend the 9-month period described in paragraph (a) of this section.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. On June 1, 1970, a tax is assessed against A with respect to his delinquent tax liability. On July 19, 1970, a levy is wrongfully made upon certain tangible personal property of B's which is in A's possession at that time. On July 20, 1970, notice of seizure is given to A. Thus, under section 6502(b), July 20, 1970, is the date on which the levy is considered to be made. Unless a request for the return of property is sooner made to extend the 9-month period, no suit or proceeding under section 7426 may be begun by B after April 20, 1971, which is 9 months from the date of levy.

Example 2. Assume the same facts as in the preceding example except that, on August 3, 1970, B properly files a request for the return of his property wrongfully levied upon. Assume further that the district director mails, on March 1, 1971, a notice of disallowance of B's request for the return of the property. No suit or proceeding under section 7426 may be begun by B after August 3, 1971, which is 12 months from the date of filing a request for the return of property wrongfully levied upon.

Example 3. Assume the same facts as in the preceding example except that the notice of disallowance of B's request for the return of

property wrongfully levied upon is mailed to B on November 12, 1970. Since the 6-month period from the mailing of the notice of disallowance expires before the 12-month period from the date of filing the request for the return of property which ends on August 3, 1971, no suit or proceeding under section 7426 may be begun by B after May 12, 1971, which is 6 months from the date of mailing the notice of disallowance.

[T.D. 7305, 39 FR 9950, Mar. 15, 1974]

Interest

INTEREST ON UNDERPAYMENTS

§ 301.6601-1 Interest on underpayments.

(a) *General rule.* (1) Interest at the annual rate referred to in the regulations under section 6621 shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(2) For provisions requiring the payment of interest during the period occurring before July 1, 1975, see section 6601(a) prior to its amendment by section 7 of the Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115).

(b) *Satisfaction by credits made after December 31, 1957*—(1) *In general.* If any portion of a tax is satisfied by the credit of an overpayment after December 31, 1957, interest shall not be imposed under section 6601 on such portion of the tax for any period during which interest on the overpayment would have been allowable if the overpayment had been refunded.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. An examination of A's income tax returns for the calendar years 1955 and 1956 discloses an underpayment of \$800 for 1955 and an overpayment of \$500 for 1956. Interest under section 6601(a) ordinarily accrues on the underpayment of \$800 from April 15, 1956, to the date of payment. However, the 1956 overpayment of \$500 is credited after December 31, 1957, against the underpayment in accordance with the provisions of section 6402(a) and § 301.6402-1. Under such circumstances interest on the \$800 underpayment runs from April 15, 1956, the last date prescribed for payment of the 1955 tax, to April 15, 1957, the date the overpayment of \$500 was made. Since interest would have

been allowed on the overpayment, if refunded, from April 15, 1957, to a date not more than 30 days prior to the date of the refund check, no interest is imposed after April 15, 1957, on \$500, the portion of the underpayment satisfied by credit. Interest continues to run, however, on \$300 (the \$800 underpayment for 1955 less the \$500 overpayment for 1956) to the date of payment.

Example 2. An examination of A's income tax returns for the calendar years 1956 and 1957 discloses an overpayment, occurring on April 15, 1957, of \$700 for 1956 and an underpayment of \$400 for 1957. After April 15, 1958, the last date prescribed for payment of the 1957 tax, the district director credits \$400 of the overpayment against the underpayment. In such a case, interest will accrue upon the overpayment of \$700 from April 15, 1957, to April 15, 1958, the due date of the amount against which the credit is taken. Interest will also accrue under section 6611 upon \$300 (\$700 overpayment less \$400 underpayment) from April 15, 1958, to a date not more than 30 days prior to the date of the refund check. Since a refund of the portion of the overpayment credited against the underpayment would have resulted in interest running upon such portion from April 15, 1958, to a date not more than 30 days prior to the date of the refund check, no interest is imposed upon the underpayment.

(c) *Last date prescribed for payment.* (1) In determining the last date prescribed for payment, any extension of time granted for payment of tax (including any postponement elected under section 6163(a)) shall be disregarded. The granting of an extension of time for the payment of tax does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. Thus, except as provided in paragraph (b) of this section, interest at the annual rate referred to in the regulations under section 6621 is payable on any unpaid portion of the tax for the period during which such portion remains unpaid by reason of an extension of time for the payment thereof.

(2)(i) If a tax or portion thereof is payable in installments in accordance with an election made under section 6152(a) or 6156(a), the last date prescribed for payment of any installment of such tax or portion thereof shall be determined under the provisions of section 6152(b) or 6156(b), as the case may be, and interest shall run on any unpaid installment from such last date to the date on which payment is received.